

Know Your Rights

SMALL CLAIMS COURT (CA)

This fact sheet is designed to help people with disabilities bring a lawsuit in small claims court. This fact sheet will cover:

- (1) Bringing a Lawsuit in Small Claims Court
- (2) Special Rules for Suing State and Local Government Agencies

YOU HAVE THE RIGHT TO SUE IN SMALL CLAIMS COURT.

To file a claim, you must be (1) at least 18 years old (or a legally emancipated minor) and (2) “competent” to file. If not, you must ask the Court to appoint a friend or family member who is not an attorney (i.e., a guardian ad litem) to speak on your behalf.

REMEMBER – You can only ask for money in small claims court, not an injunction. Generally, you can only ask for up to \$10,000, as an individual.

Statute of Limitations: Check to see what the time limit is for filing your type of claim. If you are not sure, contact your local Small Claims Advisor. For Los Angeles County, you can call (213) 974-9759 or visit the main office at 500 West Temple Street, Room B-95, Los Angeles, CA 90012.

How to Start

1. Send the defendant a written demand letter. This is required for most small claims cases as a showing of proof. For help writing a demand letter in California: <http://www.courts.ca.gov/11145.htm>.
2. File a complaint (SC-100 form in CA) to begin your lawsuit if the defendant does not pay.
 - You should file your complaint where the defendant lives or does business, where the defendant has an office or where the incident took place.
 - You can file your complaint at the Court itself or with the Court via the internet or fax (but these will require additional fees).
 - If the lawsuit is filed in the wrong Court, the defendant may get the case dismissed by (a) sending a letter to the Court and plaintiff explaining that this is the wrong Court or (b) arguing that this is the incorrect Court at the hearing.

Naming Defendants in the Complaint

1. Individual: Always use the complete name of the individual (e.g., Jack P. Smith).
2. Sole Proprietorship: Name of the owner (“as an individual”) and “d/b/a” business name (e.g., Jack P. Smith (as an individual) and d/b/a Jack’s Deli).
3. Partnership: Name of each partner (“as an individual”) and d/b/a partnership name (e.g., Jack P. Smith (as an individual), Jane P. Smith (as an individual) and d/b/a Jack’s Deli).
4. Corporation: Name of the corporation followed by “Corporation” or “Inc” (e.g., Jack’s Deli, Inc., a corporation).
5. Subsidiary of the Corporation: Name of the corporation and d/b/a subsidiary name (e.g., Jack’s Deli, Inc., d/b/a Jane’s Store).

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This publication is not intended to be legal advice or a substitute for professional services.

Fee Waiver

You may be eligible for a fee waiver if:

1. You receive government benefits (e.g., CalWorks, SSI, etc.); or
2. You can't pay fees in addition to basic living costs; or
3. Your monthly income is less than the amount shown in the chart below:ⁱ

<u>Number of People in Household</u>	<u>Maximum Monthly Household Income</u>
1 in Household	\$1,163.55
2 in Household	\$1,576.05
3 in Household	\$1,988.55
4 in Household	\$2,401.05
5 in Household	\$2,813.55
6 in Household (add \$412.50 for each additional person)	\$3,226.05

To request a fee waiver in CA, fill out <http://www.courts.ca.gov/documents/fw001.pdf>

Serving Defendants

- You must serve the defendant at least 15 days before the court date (20 days if the defendant is out of the county).
- The server must be a (1) non-party who is (2) at least 18 years old. You can give a fee to the court clerk for certified mail service, but this is risky since a defendant can refuse to accept or sign illegibly, causing the judge to rule that he or she was not served.
- You must file a proof of service with the court clerk at least 5 days before your court date.

Appearing in Court

- Bring any and all evidence that supports your case, including a copy of the demand letter you sent to the defendant.
- If you have a disability and need an accommodation at Court (including a sign language translator), fill out and file the MC-410 form at least 1 week before your court date. Accommodations will be provided for free.

Appeals: Only a defendant can appeal a judgment, but he or she must do so within 30 days of their receipt of Notice of Entry of Judgment.

If you have any questions, contact your Small Claims Advisor! <http://www.courts.ca.gov/selfhelp-advisors.htm>

SPECIAL RULES FOR SUING STATE AND LOCAL GOVERNMENT AGENCIES IN SMALL CLAIMS:

How to File a Claimⁱⁱ

1. Obtain the proper claim form for the entity you are suing. If the claim is against a California state agency, use the Government Claim Form:
<http://www.vcgcb.ca.gov/docs/forms/claims/GCClaimForm.pdf>
2. File the claim within 6 months of the incident for death/injury to person or damage to personal property. All other claims must be filed no later than 1 year after the incident.
3. If the entity sent a rejection letter, you must include a copy of the rejection letter with your small claims lawsuit and sue within 6 months of rejection. If you do not receive a response, your claim is deemed rejected after 45 days, and you must file within 2 years of the deemed rejection.

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